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**SUBSTITUTE SENATE BILL 5131**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Carrell, Mulliken, Kline, Swecker, Schoesler, Franklin, Benson, Kastama, Regala, Delvin, Kohl-Welles and Rasmussen)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to possession of firearms by persons found not  
2 guilty by reason of insanity; amending RCW 9.41.040, 9.41.047,  
3 9.41.060, 9.41.075, and 71.34.200; and reenacting and amending RCW  
4 71.05.390.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9.41.040 and 2003 c 53 s 26 are each amended to read  
7 as follows:

8 (1)(a) A person, whether an adult or juvenile, is guilty of the  
9 crime of unlawful possession of a firearm in the first degree, if the  
10 person owns, has in his or her possession, or has in his or her control  
11 any firearm after having previously been convicted or found not guilty  
12 by reason of insanity in this state or elsewhere of any serious offense  
13 as defined in this chapter.

14 (b) Unlawful possession of a firearm in the first degree is a class  
15 B felony punishable according to chapter 9A.20 RCW.

16 (2)(a) A person, whether an adult or juvenile, is guilty of the  
17 crime of unlawful possession of a firearm in the second degree, if the  
18 person does not qualify under subsection (1) of this section for the

1 crime of unlawful possession of a firearm in the first degree and the  
2 person owns, has in his or her possession, or has in his or her control  
3 any firearm:

4 (i) After having previously been convicted or found not guilty by  
5 reason of insanity in this state or elsewhere of any felony not  
6 specifically listed as prohibiting firearm possession under subsection  
7 (1) of this section, or any of the following crimes when committed by  
8 one family or household member against another, committed on or after  
9 July 1, 1993: Assault in the fourth degree, coercion, stalking,  
10 reckless endangerment, criminal trespass in the first degree, or  
11 violation of the provisions of a protection order or no-contact order  
12 restraining the person or excluding the person from a residence (RCW  
13 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

14 (ii) After having previously been involuntarily committed for  
15 mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77  
16 RCW, or equivalent statutes of another jurisdiction, unless his or her  
17 right to possess a firearm has been restored as provided in RCW  
18 9.41.047;

19 (iii) If the person is under eighteen years of age, except as  
20 provided in RCW 9.41.042; and/or

21 (iv) If the person is free on bond or personal recognizance pending  
22 trial, appeal, or sentencing for a serious offense as defined in RCW  
23 9.41.010.

24 (b) Unlawful possession of a firearm in the second degree is a  
25 class C felony punishable according to chapter 9A.20 RCW.

26 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as  
27 used in this chapter, a person has been "convicted", whether in an  
28 adult court or adjudicated in a juvenile court, at such time as a plea  
29 of guilty has been accepted, or a verdict of guilty has been filed,  
30 notwithstanding the pendency of any future proceedings including but  
31 not limited to sentencing or disposition, post-trial or post-  
32 factfinding motions, and appeals. Conviction includes a dismissal  
33 entered after a period of probation, suspension or deferral of  
34 sentence, and also includes equivalent dispositions by courts in  
35 jurisdictions other than Washington state. A person shall not be  
36 precluded from possession of a firearm if the conviction has been the  
37 subject of a pardon, annulment, certificate of rehabilitation, or other  
38 equivalent procedure based on a finding of the rehabilitation of the

1 person convicted or the conviction or disposition has been the subject  
2 of a pardon, annulment, or other equivalent procedure based on a  
3 finding of innocence. Where no record of the court's disposition of  
4 the charges can be found, there shall be a rebuttable presumption that  
5 the person was not convicted of the charge.

6 (4) Notwithstanding subsection (1) or (2) of this section, a person  
7 convicted or found not guilty by reason of insanity of an offense  
8 prohibiting the possession of a firearm under this section other than  
9 murder, manslaughter, robbery, rape, indecent liberties, arson,  
10 assault, kidnapping, extortion, burglary, or violations with respect to  
11 controlled substances under RCW 69.50.401 and 69.50.410, who received  
12 a probationary sentence under RCW 9.95.200, and who received a  
13 dismissal of the charge under RCW 9.95.240, shall not be precluded from  
14 possession of a firearm as a result of the conviction or finding of not  
15 guilty by reason of insanity. Notwithstanding any other provisions of  
16 this section, if a person is prohibited from possession of a firearm  
17 under subsection (1) or (2) of this section and has not previously been  
18 convicted or found not guilty by reason of insanity of a sex offense  
19 prohibiting firearm ownership under subsection (1) or (2) of this  
20 section and/or any felony defined under any law as a class A felony or  
21 with a maximum sentence of at least twenty years, or both, the  
22 individual may petition a court of record to have his or her right to  
23 possess a firearm restored:

24 (a) Under RCW 9.41.047; and/or

25 (b)(i) If the conviction or finding of not guilty by reason of  
26 insanity was for a felony offense, after five or more consecutive years  
27 in the community without being convicted or found not guilty by reason  
28 of insanity or currently charged with any felony, gross misdemeanor, or  
29 misdemeanor crimes, if the individual has no prior felony convictions  
30 that prohibit the possession of a firearm counted as part of the  
31 offender score under RCW 9.94A.525; or

32 (ii) If the conviction or finding of not guilty by reason of  
33 insanity was for a nonfelony offense, after three or more consecutive  
34 years in the community without being convicted or found not guilty by  
35 reason of insanity or currently charged with any felony, gross  
36 misdemeanor, or misdemeanor crimes, if the individual has no prior  
37 felony convictions that prohibit the possession of a firearm counted as

1 part of the offender score under RCW 9.94A.525 and the individual has  
2 completed all conditions of the sentence.

3 (5) In addition to any other penalty provided for by law, if a  
4 person under the age of eighteen years is found by a court to have  
5 possessed a firearm in a vehicle in violation of subsection (1) or (2)  
6 of this section or to have committed an offense while armed with a  
7 firearm during which offense a motor vehicle served an integral  
8 function, the court shall notify the department of licensing within  
9 twenty-four hours and the person's privilege to drive shall be revoked  
10 under RCW 46.20.265.

11 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or  
12 interpreted as preventing an offender from being charged and  
13 subsequently convicted for the separate felony crimes of theft of a  
14 firearm or possession of a stolen firearm, or both, in addition to  
15 being charged and subsequently convicted under this section for  
16 unlawful possession of a firearm in the first or second degree.  
17 Notwithstanding any other law, if the offender is convicted under this  
18 section for unlawful possession of a firearm in the first or second  
19 degree and for the felony crimes of theft of a firearm or possession of  
20 a stolen firearm, or both, then the offender shall serve consecutive  
21 sentences for each of the felony crimes of conviction listed in this  
22 subsection.

23 (7) Each firearm unlawfully possessed under this section shall be  
24 a separate offense.

25 **Sec. 2.** RCW 9.41.047 and 1996 c 295 s 3 are each amended to read  
26 as follows:

27 (1) At the time a person is convicted or found not guilty by reason  
28 of insanity of an offense making the person ineligible to possess a  
29 firearm, or at the time a person is committed by court order under RCW  
30 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment,  
31 the convicting or committing court shall notify the person, orally and  
32 in writing, that the person must immediately surrender any concealed  
33 pistol license and that the person may not possess a firearm unless his  
34 or her right to do so is restored by a court of record. For purposes  
35 of this section a convicting court includes a court in which a person  
36 has been found not guilty by reason of insanity.

1 The convicting or committing court also shall forward a copy of the  
2 person's driver's license or identicard, or comparable information, to  
3 the department of licensing, along with the date of conviction or  
4 commitment.

5 (2) Upon receipt of the information provided for by subsection (1)  
6 of this section, the department of licensing shall determine if the  
7 convicted or committed person has a concealed pistol license. If the  
8 person does have a concealed pistol license, the department of  
9 licensing shall immediately notify the license-issuing authority which,  
10 upon receipt of such notification, shall immediately revoke the  
11 license.

12 (3)(a) A person who is prohibited from possessing a firearm, by  
13 reason of having been involuntarily committed for mental health  
14 treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or  
15 equivalent statutes of another jurisdiction may, upon discharge,  
16 petition a court of record to have his or her right to possess a  
17 firearm restored. At the time of commitment, the court shall  
18 specifically state to the person that he or she is barred from  
19 possession of firearms.

20 (b) The secretary of social and health services shall develop  
21 appropriate rules to create an approval process under this subsection.  
22 The rules must provide for the restoration of the right to possess a  
23 firearm upon a showing in a court of competent jurisdiction that the  
24 person is no longer required to participate in an inpatient or  
25 outpatient treatment program, is no longer required to take medication  
26 to treat any condition related to the commitment, and does not present  
27 a substantial danger to himself or herself, others, or the public.  
28 Unlawful possession of a firearm under this subsection shall be  
29 punished as a class C felony under chapter 9A.20 RCW.

30 (c) A person petitioning the court under this subsection (3) shall  
31 bear the burden of proving by a preponderance of the evidence that the  
32 circumstances resulting in the commitment no longer exist and are not  
33 reasonably likely to recur. If a preponderance of the evidence in the  
34 record supports a finding that the person petitioning the court has  
35 engaged in violence and that it is more likely than not that the person  
36 will engage in violence after his or her right to possess a firearm is  
37 restored, the person shall bear the burden of proving by clear, cogent,

1 and convincing evidence that he or she does not present a substantial  
2 danger to the safety of others.

3 (4) No person who has been found not guilty by reason of insanity  
4 may petition a court for restoration of the right to possess a firearm  
5 unless the person meets the requirements for the restoration of the  
6 right to possess a firearm under RCW 9.41.040(4).

7 **Sec. 3.** RCW 9.41.060 and 1998 c 253 s 2 are each amended to read  
8 as follows:

9 The provisions of RCW 9.41.050 shall not apply to:

10 (1) Marshals, sheriffs, prison or jail wardens or their deputies,  
11 or other law enforcement officers of this state or another state;

12 (2) Members of the armed forces of the United States or of the  
13 national guard or organized reserves, when on duty;

14 (3) Officers or employees of the United States duly authorized to  
15 carry a concealed pistol;

16 (4) Any person engaged in the business of manufacturing, repairing,  
17 or dealing in firearms, or the agent or representative of the person,  
18 if possessing, using, or carrying a pistol in the usual or ordinary  
19 course of the business;

20 (5) Regularly enrolled members of any organization duly authorized  
21 to purchase or receive pistols from the United States or from this  
22 state;

23 (6) Regularly enrolled members of clubs organized for the purpose  
24 of target shooting, when those members are at or are going to or from  
25 their places of target practice;

26 (7) Regularly enrolled members of clubs organized for the purpose  
27 of modern and antique firearm collecting, when those members are at or  
28 are going to or from their collector's gun shows and exhibits;

29 (8) Any person engaging in a lawful outdoor recreational activity  
30 such as hunting, fishing, camping, hiking, or horseback riding, only  
31 if, considering all of the attendant circumstances, including but not  
32 limited to whether the person has a valid hunting or fishing license,  
33 it is reasonable to conclude that the person is participating in lawful  
34 outdoor activities or is traveling to or from a legitimate outdoor  
35 recreation area;

36 (9) Any person while carrying a pistol unloaded and in a closed  
37 opaque case or secure wrapper; or

1 (10) Law enforcement officers retired for service or physical  
2 disabilities, except for those law enforcement officers retired because  
3 of mental or stress-related disabilities. This subsection applies only  
4 to a retired officer who has: (a) Obtained documentation from a law  
5 enforcement agency within Washington state from which he or she retired  
6 that is signed by the agency's chief law enforcement officer and that  
7 states that the retired officer was retired for service or physical  
8 disability; and (b) not been convicted or found not guilty by reason of  
9 insanity of a crime making him or her ineligible for a concealed pistol  
10 license.

11 **Sec. 4.** RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to  
12 read as follows:

13 (1) The license shall be revoked by the license-issuing authority  
14 immediately upon:

15 (a) Discovery by the issuing authority that the person was  
16 ineligible under RCW 9.41.070 for a concealed pistol license when  
17 applying for the license or license renewal;

18 (b) Conviction of the licensee, or the licensee being found not  
19 guilty by reason of insanity, of an offense, or commitment of the  
20 licensee for mental health treatment, that makes a person ineligible  
21 under RCW 9.41.040 to possess a firearm;

22 (c) Conviction of the licensee for a third violation of this  
23 chapter within five calendar years; or

24 (d) An order that the licensee forfeit a firearm under RCW  
25 9.41.098(1)(d).

26 (2)(a) Unless the person may lawfully possess a pistol without a  
27 concealed pistol license, an ineligible person to whom a concealed  
28 pistol license was issued shall, within fourteen days of license  
29 revocation, lawfully transfer ownership of any pistol acquired while  
30 the person was in possession of the license.

31 (b) Upon discovering a person issued a concealed pistol license was  
32 ineligible for the license, the issuing authority shall contact the  
33 department of licensing to determine whether the person purchased a  
34 pistol while in possession of the license. If the person did purchase  
35 a pistol while in possession of the concealed pistol license, if the  
36 person may not lawfully possess a pistol without a concealed pistol  
37 license, the issuing authority shall require the person to present

1 satisfactory evidence of having lawfully transferred ownership of the  
2 pistol. The issuing authority shall require the person to produce the  
3 evidence within fifteen days of the revocation of the license.

4 (3) When a licensee is ordered to forfeit a firearm under RCW  
5 9.41.098(1)(d), the issuing authority shall:

6 (a) On the first forfeiture, revoke the license for one year;

7 (b) On the second forfeiture, revoke the license for two years; or

8 (c) On the third or subsequent forfeiture, revoke the license for  
9 five years.

10 Any person whose license is revoked as a result of a forfeiture of  
11 a firearm under RCW 9.41.098(1)(d) may not reapply for a new license  
12 until the end of the revocation period.

13 (4) The issuing authority shall notify, in writing, the department  
14 of licensing of the revocation of a license. The department of  
15 licensing shall record the revocation.

16 **Sec. 5.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004  
17 c 33 s 2 are each reenacted and amended to read as follows:

18 Except as provided in this section, the fact of admission and all  
19 information and records compiled, obtained, or maintained in the course  
20 of providing services to either voluntary or involuntary recipients of  
21 services at public or private agencies shall be confidential.

22 Information and records may be disclosed only:

23 (1) In communications between qualified professional persons to  
24 meet the requirements of this chapter, in the provision of services or  
25 appropriate referrals, or in the course of guardianship proceedings.  
26 The consent of the patient, or his or her guardian, shall be obtained  
27 before information or records may be disclosed by a professional person  
28 employed by a facility unless provided to a professional person:

29 (a) Employed by the facility;

30 (b) Who has medical responsibility for the patient's care;

31 (c) Who is a county designated mental health professional;

32 (d) Who is providing services under chapter 71.24 RCW;

33 (e) Who is employed by a state or local correctional facility where  
34 the person is confined or supervised; or

35 (f) Who is providing evaluation, treatment, or follow-up services  
36 under chapter 10.77 RCW.

1 (2) When the communications regard the special needs of a patient  
2 and the necessary circumstances giving rise to such needs and the  
3 disclosure is made by a facility providing outpatient services to the  
4 operator of a care facility in which the patient resides.

5 (3) When the person receiving services, or his or her guardian,  
6 designates persons to whom information or records may be released, or  
7 if the person is a minor, when his or her parents make such  
8 designation.

9 (4) To the extent necessary for a recipient to make a claim, or for  
10 a claim to be made on behalf of a recipient for aid, insurance, or  
11 medical assistance to which he or she may be entitled.

12 (5) For either program evaluation or research, or both: PROVIDED,  
13 That the secretary adopts rules for the conduct of the evaluation or  
14 research, or both. Such rules shall include, but need not be limited  
15 to, the requirement that all evaluators and researchers must sign an  
16 oath of confidentiality substantially as follows:

17 "As a condition of conducting evaluation or research concerning  
18 persons who have received services from (fill in the facility, agency,  
19 or person) I, . . . . ., agree not to divulge, publish, or  
20 otherwise make known to unauthorized persons or the public any  
21 information obtained in the course of such evaluation or research  
22 regarding persons who have received services such that the person who  
23 received such services is identifiable.

24 I recognize that unauthorized release of confidential information  
25 may subject me to civil liability under the provisions of state law.

26  
27 /s/ .....

28 (6)(a) To the courts as necessary to the administration of this  
29 chapter or to a court ordering an evaluation or treatment under chapter  
30 10.77 RCW solely for the purpose of preventing the entry of any  
31 evaluation or treatment order that is inconsistent with any order  
32 entered under this chapter.

33 (b) To a court or its designee in which a motion under chapter  
34 10.77 RCW has been made for involuntary medication of a defendant for  
35 the purpose of competency restoration.

1 (c) Disclosure under this subsection is mandatory for the purpose  
2 of the health insurance portability and accountability act.

3 (7) To law enforcement officers, public health officers, or  
4 personnel of the department of corrections or the indeterminate  
5 sentence review board for persons who are the subject of the records  
6 and who are committed to the custody or supervision of the department  
7 of corrections or indeterminate sentence review board which information  
8 or records are necessary to carry out the responsibilities of their  
9 office. Except for dissemination of information released pursuant to  
10 RCW 71.05.425 and 4.24.550, regarding persons committed under this  
11 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of  
12 a sex offense as defined in RCW 9.94A.030, the extent of information  
13 that may be released is limited as follows:

14 (a) Only the fact, place, and date of involuntary commitment, the  
15 fact and date of discharge or release, and the last known address shall  
16 be disclosed upon request;

17 (b) The law enforcement and public health officers or personnel of  
18 the department of corrections or indeterminate sentence review board  
19 shall be obligated to keep such information confidential in accordance  
20 with this chapter;

21 (c) Additional information shall be disclosed only after giving  
22 notice to said person and his or her counsel and upon a showing of  
23 clear, cogent, and convincing evidence that such information is  
24 necessary and that appropriate safeguards for strict confidentiality  
25 are and will be maintained. However, in the event the said person has  
26 escaped from custody, said notice prior to disclosure is not necessary  
27 and that the facility from which the person escaped shall include an  
28 evaluation as to whether the person is of danger to persons or property  
29 and has a propensity toward violence;

30 (d) Information and records shall be disclosed to the department of  
31 corrections pursuant to and in compliance with the provisions of RCW  
32 71.05.445 for the purposes of completing presentence investigations or  
33 risk assessment reports, supervision of an incarcerated offender or  
34 offender under supervision in the community, planning for and provision  
35 of supervision of an offender, or assessment of an offender's risk to  
36 the community; and

37 (e) Disclosure under this subsection is mandatory for the purposes  
38 of the health insurance portability and accountability act.

1 (8) To the attorney of the detained person.

2 (9) To the prosecuting attorney as necessary to carry out the  
3 responsibilities of the office under RCW 71.05.330(2) and  
4 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access  
5 to records regarding the committed person's treatment and prognosis,  
6 medication, behavior problems, and other records relevant to the issue  
7 of whether treatment less restrictive than inpatient treatment is in  
8 the best interest of the committed person or others. Information shall  
9 be disclosed only after giving notice to the committed person and the  
10 person's counsel.

11 (10) To appropriate law enforcement agencies and to a person, when  
12 the identity of the person is known to the public or private agency,  
13 whose health and safety has been threatened, or who is known to have  
14 been repeatedly harassed, by the patient. The person may designate a  
15 representative to receive the disclosure. The disclosure shall be made  
16 by the professional person in charge of the public or private agency or  
17 his or her designee and shall include the dates of commitment,  
18 admission, discharge, or release, authorized or unauthorized absence  
19 from the agency's facility, and only such other information that is  
20 pertinent to the threat or harassment. The decision to disclose or not  
21 shall not result in civil liability for the agency or its employees so  
22 long as the decision was reached in good faith and without gross  
23 negligence.

24 (11) To appropriate corrections and law enforcement agencies all  
25 necessary and relevant information in the event of a crisis or emergent  
26 situation that poses a significant and imminent risk to the public.  
27 The decision to disclose or not shall not result in civil liability for  
28 the mental health service provider or its employees so long as the  
29 decision was reached in good faith and without gross negligence.

30 (12) To the persons designated in RCW 71.05.425 for the purposes  
31 described in that section.

32 (13) Civil liability and immunity for the release of information  
33 about a particular person who is committed to the department under RCW  
34 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
35 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

36 (14) To a patient's next of kin, guardian, or conservator, if any,  
37 in the event of death, as provided in RCW 71.05.400.

1 (15) To the department of health for the purposes of determining  
2 compliance with state or federal licensure, certification, or  
3 registration rules or laws. However, the information and records  
4 obtained under this subsection are exempt from public inspection and  
5 copying pursuant to chapter 42.17 RCW.

6 (16) To mark headstones or otherwise memorialize patients interred  
7 at state hospital cemeteries. The department of social and health  
8 services shall make available the name, date of birth, and date of  
9 death of patients buried in state hospital cemeteries fifty years after  
10 the death of a patient.

11 (17) To law enforcement officers and to prosecuting attorneys as  
12 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of  
13 information that may be released is limited as follows:

14 (a) Only the fact, place, and date of involuntary commitment, an  
15 official copy of any order or orders of commitment, and an official  
16 copy of any written or oral notice of ineligibility to possess a  
17 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
18 shall be disclosed upon request;

19 (b) The law enforcement and prosecuting attorneys may only release  
20 the information obtained to the person's attorney as required by court  
21 rule and to a jury or judge, if a jury is waived, that presides over  
22 any trial at which the person is charged with violating RCW  
23 9.41.040(2)(a)(ii);

24 (c) Disclosure under this subsection is mandatory for the purposes  
25 of the health insurance portability and accountability act.

26 The fact of admission, as well as all records, files, evidence,  
27 findings, or orders made, prepared, collected, or maintained pursuant  
28 to this chapter shall not be admissible as evidence in any legal  
29 proceeding outside this chapter without the written consent of the  
30 person who was the subject of the proceeding except in a subsequent  
31 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)  
32 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter  
33 10.77 RCW due to incompetency to stand trial or in a civil commitment  
34 proceeding pursuant to chapter 71.09 RCW. The records and files  
35 maintained in any court proceeding pursuant to this chapter shall be  
36 confidential and available subsequent to such proceedings only to the  
37 person who was the subject of the proceeding or his or her attorney.  
38 In addition, the court may order the subsequent release or use of such

1 records or files only upon good cause shown if the court finds that  
2 appropriate safeguards for strict confidentiality are and will be  
3 maintained.

4 **Sec. 6.** RCW 71.34.200 and 2000 c 75 s 7 are each amended to read  
5 as follows:

6 The fact of admission and all information obtained through  
7 treatment under this chapter is confidential. Confidential information  
8 may be disclosed only:

9 (1) In communications between mental health professionals to meet  
10 the requirements of this chapter, in the provision of services to the  
11 minor, or in making appropriate referrals;

12 (2) In the course of guardianship or dependency proceedings;

13 (3) To persons with medical responsibility for the minor's care;

14 (4) To the minor, the minor's parent, and the minor's attorney,  
15 subject to RCW 13.50.100;

16 (5) When the minor or the minor's parent designates in writing the  
17 persons to whom information or records may be released;

18 (6) To the extent necessary to make a claim for financial aid,  
19 insurance, or medical assistance to which the minor may be entitled or  
20 for the collection of fees or costs due to providers for services  
21 rendered under this chapter;

22 (7) To the courts as necessary to the administration of this  
23 chapter;

24 (8) To law enforcement officers or public health officers as  
25 necessary to carry out the responsibilities of their office. However,  
26 only the fact and date of admission, and the date of discharge, the  
27 name and address of the treatment provider, if any, and the last known  
28 address shall be disclosed upon request;

29 (9) To law enforcement officers, public health officers, relatives,  
30 and other governmental law enforcement agencies, if a minor has escaped  
31 from custody, disappeared from an evaluation and treatment facility,  
32 violated conditions of a less restrictive treatment order, or failed to  
33 return from an authorized leave, and then only such information as may  
34 be necessary to provide for public safety or to assist in the  
35 apprehension of the minor. The officers are obligated to keep the  
36 information confidential in accordance with this chapter;

1 (10) To the secretary for assistance in data collection and program  
2 evaluation or research, provided that the secretary adopts rules for  
3 the conduct of such evaluation and research. The rules shall include,  
4 but need not be limited to, the requirement that all evaluators and  
5 researchers sign an oath of confidentiality substantially as follows:

6 "As a condition of conducting evaluation or research concerning  
7 persons who have received services from (fill in the facility, agency,  
8 or person) I, . . . . ., agree not to divulge, publish, or otherwise  
9 make known to unauthorized persons or the public any information  
10 obtained in the course of such evaluation or research regarding minors  
11 who have received services in a manner such that the minor is  
12 identifiable.

13 I recognize that unauthorized release of confidential information  
14 may subject me to civil liability under state law.

15 /s/ ..... "

16 (11) To appropriate law enforcement agencies, upon request, all  
17 necessary and relevant information in the event of a crisis or emergent  
18 situation that poses a significant and imminent risk to the public.  
19 The decision to disclose or not shall not result in civil liability for  
20 the mental health service provider or its employees so long as the  
21 decision was reached in good faith and without gross negligence;

22 (12) To appropriate law enforcement agencies and to a person, when  
23 the identity of the person is known to the public or private agency,  
24 whose health and safety has been threatened, or who is known to have  
25 been repeatedly harassed, by the patient. The person may designate a  
26 representative to receive the disclosure. The disclosure shall be made  
27 by the professional person in charge of the public or private agency or  
28 his or her designee and shall include the dates of admission,  
29 discharge, authorized or unauthorized absence from the agency's  
30 facility, and only such other information that is pertinent to the  
31 threat or harassment. The decision to disclose or not shall not result  
32 in civil liability for the agency or its employees so long as the  
33 decision was reached in good faith and without gross negligence;

34 (13) To a minor's next of kin, attorney, guardian, or conservator,  
35 if any, the information that the minor is presently in the facility or

1 that the minor is seriously physically ill and a statement evaluating  
2 the mental and physical condition of the minor as well as a statement  
3 of the probable duration of the minor's confinement;

4 (14) Upon the death of a minor, to the minor's next of kin;

5 (15) To a facility in which the minor resides or will reside;

6 (16) To law enforcement officers and to prosecuting attorneys as  
7 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of  
8 information that may be released is limited as follows:

9 (a) Only the fact, place, and date of involuntary commitment, an  
10 official copy of any order or orders of commitment, and an official  
11 copy of any written or oral notice of ineligibility to possess a  
12 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
13 shall be disclosed upon request;

14 (b) The law enforcement and prosecuting attorneys may only release  
15 the information obtained to the person's attorney as required by court  
16 rule and to a jury or judge, if a jury is waived, that presides over  
17 any trial at which the person is charged with violating RCW  
18 9.41.040(2)(a)(ii);

19 (c) Disclosure under this subsection is mandatory for the purposes  
20 of the health insurance portability and accountability act.

21 This section shall not be construed to prohibit the compilation and  
22 publication of statistical data for use by government or researchers  
23 under standards, including standards to assure maintenance of  
24 confidentiality, set forth by the secretary. The fact of admission and  
25 all information obtained pursuant to this chapter are not admissible as  
26 evidence in any legal proceeding outside this chapter, except  
27 guardianship or dependency, without the written consent of the minor or  
28 the minor's parent.

29 NEW SECTION. Sec. 7. If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected.

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